

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

DATATREASURY CORP.,

§

v.

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CIVIL ACTION NO. 2:05-CV-291

WELLS FARGO & CO., et al.,

§

DATATREASURY CORP.,

§

v.

§
§

CIVIL ACTION NO. 2:05-CV-292

BANK OF AMERICA CORP., et al.,

§

DATATREASURY CORP.,

§

v.

§
§

CIVIL ACTION NO. 2:05-CV-293

WACHOVIA CORP., et al.,

§

DATATREASURY CORP.,

§

v.

§
§

CIVIL ACTION NO. 2:06-CV-72

WELLS FARGO & CO., et al.,

§

O R D E R

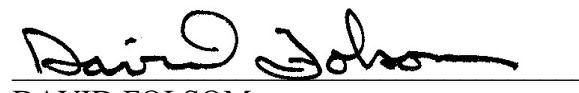
Before the Court is Bank of America's Emergency Motion to Compel DataTreasury Corporation to Permit Inspection of the Ballard Prototype (Cause 2:05-CV-292, Dkt. No. 199) and associated responses and replies (Dkt. Nos. 201 & 202). The Court held a hearing on this Motion following the status conference, which was held on May 18, 2009. *See* Cause 2:05-CV-292, Dkt. No. 216. After considering the pleadings, the applicable case law, and the argument of counsel, the Court finds Bank of America's Motion should be **DISMISSED**.

The Court finds that Bank of America should be allowed to inspect the Ballard Prototype. However, the Court finds DataTreasury must also be permitted to inspect the facilities of each of the Defendants involved in these cases. At the hearing, counsel for Bank of America indicated that privacy laws require DataTreasury's inspection to proceed with each bank individually, on a bank-by-bank basis. Because the Court finds this procedure is unfair and fraught with potential prejudice, the Court hereby **ORDERS** that the parties submit a joint motion for inspection that contains an agreement providing for the reciprocal inspection of facilities, including the dates and conditions under which such inspections will occur. If the parties are unable to reach an agreement on a joint motion, the parties are to submit, by motion, competing inspection proposals for the Court's consideration. The joint motion or competing inspection motions shall be filed by 5PM on June 26, 2009.

Due to the foregoing, Bank of America's Emergency Motion to Compel DataTreasury Corporation to Permit Inspection of the Ballard Prototype (Cause 2:05-CV-292, Dkt. No. 199) is hereby **DISMISSED** as the Court will address this issue in the Motion(s) that the Court has ordered in the previous paragraph.

IT IS SO ORDERED.

SIGNED this 26th day of May, 2009.



DAVID FOLSOM
UNITED STATES DISTRICT JUDGE